

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 55 (Sub-No. 763X)

**CSX Transportation, Inc. – Abandonment Exemption –
In Logan County, W.Va.**

BACKGROUND

In this proceeding, CSXT Transportation, Inc. (CSXT) filed a notice under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of 3.29 miles of rail line on its Southern Region, Florence Division, Logan Subdivision, located between milepost CLX 0.0, near Man, and milepost CLX 3.29, near Garnette, in Logan County, West Virginia (the Line). CSXT indicates that there are two stations on the Line – at Man, milepost CLX 0.0, and at Garnette, milepost CLX 3.0. The Line travels through the rugged Appalachian Mountains in south western West Virginia near the strip mines and waste dumps of former coal mining operations. CSXT reports that the Line does not contain any federally granted rights-of-way but may have reversionary interests. The Line's right-of-way is approximately 50 feet in width from the centerline of the track and the proposed abandonment traverses United States Zip Codes 25632 and 25635.

According to CSXT, the Hatfield's and McCoy Regional Recreational Authority (HMRRA) is interested in acquiring and preserving the rail corridor as a trail, pursuant to the National Trails System Act at 16 U.S.C. § 1247(d). In order to start the process, OHMRRA must file the requisite Notice of Interim Trail Use (NITU) with the Surface Transportation Board (Board) within the time frame specified in the Federal Register notice and CSXT must agree to the request. CSXT notes that OHMRRA currently uses the segment of abandonment Line at milepost CLX 0.20 as an all-terrain vehicle (ATV) trail and wishes to expand this operation to the remainder of the abandonment Line. CSXT affirms that a NITU would allow for rail service to be reactivated, should the coal reserves in the area become active. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

CSXT submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. CSXT served the environmental report on a number of appropriate federal, state, and local agencies as required

by the Board's environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to CSXT, no local traffic has moved over the line for at least two years and no overhead traffic would be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or if necessary, via construction of new access points to the right-of-way. If abandonment authority is granted, CSXT intends to salvage the rail, ties, track materials, and the upper layer of ballast. CSXT does not intend to disturb or salvage any sub-grade or sub-grade structures, including bridges, trestles, culverts, and tunnels. If the rail line should become a trail under the National Trails System Act, the corridor would remain in place.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

CSXT states that there are no known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way proposed for abandonment. The U.S. Environmental Protection Agency (USEPA) has not commented on this proceeding; however, based on the information presented by CSXT, OEA believes that the proposed abandonment would have no impact on these resource areas. OEA has nevertheless included USEPA in the service list for this proceeding so that it may review the EA and provide comments regarding this matter, if necessary.

CSXT states that its salvage operations would not involve the discharge of dredge or fill material into waters of the United States because it intends to conduct salvage activities in the existing right-of-way, along existing public and private crossings. No new access roads are contemplated, and CSXT does not intend to disturb any of the underlying road bed or perform any activities that would result in sedimentation or erosion of the soil. No dredging or use of fill material would occur in removing the track and ties and CSXT would transport the crossties and

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 55 (Sub-No. 763X).

other debris away from the rail line and associated water resources. Finally, CSXT would use appropriate measures during salvage to prevent and control spills from fuels, lubricants and other pollutants from entering any waterways. Although the U.S. Army Corps of Engineers' (Corps) has not commented on the need for a Section 404 permit under the Clean Water Act (33 U.S.C. § 1344), OEA believes that such a permit is not needed because project activities would not involve the discharge of dredged or fill material into waters of the United States. However, OEA has included the Corps in the service list for this proceeding so that it may review the EA and provide comments regarding this matter, if necessary.

CSXT states that the proposed abandonment is consistent with federal, state and local water quality standards because it does not contemplate any action known to be inconsistent with the applicable water quality standards. The West Virginia Department of Environmental Protection (WVDEP) has not commented on this proceeding; however, based on the information presented by CSXT, OEA believes that there would be no significant impacts on water quality standards, pursuant to Section 402 of the Clean Water Act (33 U.S.C. § 1342). OEA has nevertheless included WVDEP in the service list for this proceeding so that it may review the EA and provide comments on this matter, if necessary.

CSXT states that the proposed abandonment is not likely to adversely affect endangered or threatened species, or areas designated as critical habitat. The U.S. Fish and Wildlife Service (USFWS) has not commented on this proceeding; however, given CSXT's detailed salvage procedure of minimal ground disturbance, OEA believes that the proposed abandonment would not adversely affect these species or their habitat. OEA has nevertheless included USFWS in the service list for this proceeding so that it may review the EA and provide comments regarding this matter, if necessary.

The Natural Resources Conservation Service (NRCS) has not commented on proposed abandonment and potential impacts to prime agricultural land, pursuant to the Farmland Protection Policy Act (FPPA). However, based on CSXT's detailed salvage procedure of minimal ground disturbance, OEA believes that the proposed abandonment would not adversely affect FPPA resources, but has included NRCS in the service list for this proceeding so that it may review the EA and comment, if necessary.

The National Geodetic Survey (NGS) commented that there are no geodetic station markers that may be affected by the proposed abandonment. Therefore, OEA has determined that no further consultation with NGS in this abandonment proceeding is necessary.

OEA has not yet received responses from several other federal, state and local agencies regarding potential environmental impacts from the proposed abandonment. OEA is therefore sending a copy of this EA to the following agencies for review and comment: the National Park Service; the West Virginia Department of Transportation; the Office of the Governor; and the Logan County Commission.

HISTORIC REVIEW

CSXT submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the West Virginia Division of Culture and History (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). The report indicates that the line proposed for abandonment contains three CSXT-owned structures that are 50 years old or older that may be eligible for listing in the National Register of Historic Places (National Register). CSXT has no plans to remove or otherwise alter the bridges, should the proposed abandonment be authorized. However, OEA has not heard from the SHPO and therefore has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing on the National Register.

Accordingly, we are recommending a condition requiring CSXT to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of two Native American databases to identify federally recognized tribes that may have ancestral connections to the project area.² The databases indicate that there are three federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way or APE of the proposed abandonment. The tribes are: the Eastern Band of Cherokee Indians; the Eastern Shawnee Tribe of Oklahoma; and the Seneca-Cayuga Nation. OEA has included these tribes in the service list for this proceeding so that they may receive a copy of the EA for review.

² Native American Consultation Database <http://grantsdev.cr.nps.gov/Nagpra/NACD/> (last visited September 20, 2016) and the U.S. Housing and Urban Development's Tribal Directory Assessment Tool at <http://egis.hud.gov/tdat/Tribal.aspx> (last visited September 20, 2016).

CONDITIONS

We recommend that the following condition be imposed on any decision granting abandonment authority:

1. CSX Transportation, Inc. (CSXT) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. CSXT shall report back to OEA regarding any consultations with the West Virginia Division of Culture and History (State Historic Preservation Office or SHPO) and the public. CSXT may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed and if the recommended mitigation is imposed, abandonment of the line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 55 (Sub-No. 763X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at Diana.Wood@stb.gov.

Date made available to the public: September 30, 2016.

Comment due date: October 18, 2016.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment